

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

REXFORD PROPERTIES LLC,

Plaintiff,

v.

AGCS MARINE INSURANCE COMPANY,
et al.,

Defendants.

Case No. 1:23-cv-00276-SAB

ORDER ADDRESSING PLAINTIFF'S
STATUS REPORT ON SERVICE AND
READINESS FOR SCHEDULING
CONFERENCE

(ECF Nos. 8, 9)

Plaintiff filed this action on January 17, 2023, in the Fresno County Superior Court.

(ECF No. 1 at 2.) The complaint names Allianz Global Corporate and Specialty, and AGCS Marine Insurance Company, as Defendants. On February 22, 2023, Defendant AGCS Marine Insurance Company removed this action to the United States District Court for the Eastern District of California. (ECF No. 1.) A scheduling conference is currently set for May 9, 2023. (ECF No. 4.)

In the removal documents, there is no indication that Defendant Allianz Global Corporate and Specialty was served, nor any indication they have filed an answer. Further, Defendant AGCS Marine Insurance Company, in support of their contention that diversity jurisdiction is proper, describes that "it is indisputable from the subject insurance policy attached to Plaintiff's Complaint that Allianz Global Corporate & Specialty® is neither a business entity nor an insurance company [but] rather, a registered trademark (i.e., a service mark) . . . [and]

1 [m]oreover, AGCS Marine Insurance Company is indisputably identified as the insurance
2 company for the subject policy.” (ECF No. 1 at 4.) Based on this information, the Court ordered
3 Plaintiff to address the status of service on Defendant Allianz Global Corporate and Specialty, in
4 relation to the parties’ readiness for the May 9, 2023, scheduling conference, including whether
5 service has been completed, whether entry of default is proper, or whether this party should be
6 dismissed in advance of the scheduling conference. (ECF No. 8.)

7 On April 17, 2023, Plaintiff filed a status report. (ECF No. 9.) Plaintiff has attached a
8 proof of service for Defendant Allianz Global Corporate and Specialty dated January 23, 2023;
9 describes attempts at communicating with counsel for Defendant AGCS Marine Insurance
10 Company regarding Allianz Global Corporate and Specialty; proffers Plaintiff is not privy to the
11 corporate intricacies between these companies; that Allianz Global Corporate and Specialty has
12 brought litigation in its own name; that Plaintiff will seek default against Allianz Global
13 Corporate and Specialty; and that diversity jurisdiction does not exist in this litigation.

14 Based on the Plaintiff’s status report, the Court presumes that the parties will either
15 proceed into the scheduling conference as currently scheduled with Plaintiff seeking default
16 against Defendant Allianz Global Corporate and Specialty, or Plaintiff will file a motion for
17 remand of this action.

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. The parties shall proceed with the filing of the joint scheduling report at least
20 seven days prior to the May 9, 2023, scheduling conference, unless Plaintiff files
21 a motion to remand this action prior to such deadline, or the parties stipulate to a
22 continuance of the scheduling conference to address outstanding issues regarding
23 diversity jurisdiction; and

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1 2. Plaintiff shall request entry of default against any defaulting parties prior to the
2 scheduling conference, to the extent proper under applicable law in relation to the
3 date of service, removal, and potential motion to remand.

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5 IT IS SO ORDERED.
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7 Dated: April 18, 2023
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UNITED STATES MAGISTRATE JUDGE